

FILED APR 25 12:21 PM '06

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

BENJAMIN MORI,	)	
	)	
Petitioner,	)	
	)	Civil No. 05-1146-CO
v.	)	
	)	ORDER
	)	
CHARLES DANIELS,	)	
	)	
Respondent.	)	
_____	)	

Magistrate Judge John Cooney filed Findings and Recommendation on January 20, 2006, in the above entitled case. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). When either party objects to any portion of a magistrate judge's Findings and Recommendation, the district court must make a de novo determination of that portion of the magistrate judge's findings. See 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982).

Respondent has filed objections. I have, therefore, given de novo review of Magistrate Judge Cooney's rulings.

Petitioner seeks relief pursuant to 28 U.S.C. § 2241 challenging the Bureau of Prison's (BOP) decision to delay consideration of placement into a community corrections center prior to the last 10% of his sentence. Specifically, petitioner challenges the validity of the regulations found at 28 C.F.R. §§ 570.20 and 570.21 the BOP relied on in its decision. Judge Cooney determined that the regulations are invalid and recommended granting the petition. Judge Cooney further recommended ordering respondent to consider the appropriateness of petitioner's imprisonment in light of the factors set forth in 18 U.S.C. § 3621(b) and without consideration of the challenged regulations.

While the court agrees with Judge Cooney's assessment of the validity of 28 C.F.R. §§ 570.20 and 570.21, see Fults v. Sanders, \_\_\_ F.3d \_\_\_, 2006 WL 870745 (8<sup>th</sup> Cir. 2006), the BOP has since placed petitioner in a community corrections center rendering his petition moot. Accordingly, the petition is denied as moot and this proceeding is dismissed.

IT IS SO ORDERED.

DATED this 25<sup>th</sup> day of April, 2006.

Michael E. Hogan  
UNITED STATES DISTRICT JUDGE